

## REMARKS

Patent Application No.: **09/896,680**

**Responsive to the Outstanding Office Action Mailed 06/01/2005**

Sir:

1.

(A) This is responsive to the Patent Office Action date mailed 06/01/2005 (June 1, 2005) regarding Patent Application No. 09/896,680 filed 06/29/2001 by Sole Inventor Brad A. Armstrong.

(B) Attached are a Petition and fee payment under 1.136 for an additional period of two months in which to respond to the Office Action.

(C) A terminal disclaimer and fee payment therefore are attached.

2.

It is noted in the 06/01/2005 "Office Action Summary" that the Action is responsive to Applicant's communication filed 01 March 2005. It is also noted that claims 1-56 are pending, 52-53 are withdrawn from consideration, and claims 1-51 and 54-56 are rejected. It is noted the Office Action is non-final.

3.

Regarding the "Detailed Action" starting on page 2 of the Office Action:  
Regarding point "1.": Contrary to that stated in the Office Action, Applicant did send legible copies of the non US Patent literature references in the Nov. 1, 2004

Information Disclosure Statement. See the attached Exhibit A copy of the Post Card stamped by the Patent and Trademark Office Nov. 01 2004 acknowledging receipt of the "Information Disclosure Statement with copies of the non US references".

Regarding point "2" in the Detailed Action: Thank you for the suggestion however Applicant will take no action at this time toward again submitting additional references, as the references currently of record are believed fairly representative of the art.

4.

Regarding point "3" and the "Election/Restrictions" on page 2 bridging page 3 of the Office Action: That appears to be acceptable for now. Applicant will consider filing a divisional application. Claims 52 and 53 are cancelled herein under amendments below. Thank you.

5.

Regarding points 4 and 5, the Claim Rejections- 35 U.S.C. section 102 on page 3 bridging pages 4 and 5 of the 06/01/2005 Office Action:

The recitation of the appropriate paragraphs of 35 USC 102 is noted.

The rejection of claims 1-3, 6-17, 20-24, 30-31, 39, 42, 50, 51 & 54-56 as anticipated or in the alternative obvious under 35 USC 103(a) in view of

Furukawa, Japanese document No. 5-87760, is noted. Also noted is the specific listing of elements believed found by the Examiner in Furukawa and in Applicant's claims. The obviousness rejection in points 6 and 7 of the Office Action is also noted.

Except for the Double Patenting rejection, all of the rejections in the Office Action based on prior art whether 35 USC 102 or 103 are based primarily upon the Furukawa Japanese document No. 5-87760, i.e., Furukawa relied upon by the Examiner to provide elements which must be shown in the prior art. While Furukawa is clearly the foundation of the Examiner's case for rejection under both 35 USC 102(b) and 103(a) of all claims 1-52, 54-56, the Examiner does combine Terajima, Japanese document No. 7-302159, with Furukawa to show additional specific elements in the prior art for the obviousness rejections.

6.

(A) WITHDRAWAL OF THE REJECTIONS UNDER 35 U.S.C 102(b) & 103(a) is requested because Furukawa does not teach the claimed invention, please see the Manual of Patent Examining Procedures MPEP 2131, and Furukawa does not suggest the claimed invention with or without its combination with Terajima, please see MPEP 2143.03 for the requirements of a rejection under 35 USC 103(a) and please consider the following.

The present claims all basically, with many claims having additional limitations, include: a two hand held game controller with one or more pressure sensitive buttons on the right hand side or with an individual or discrete pressure button. The "discrete" pressure sensitive button on a game controller is addressed in the "reasons for allowance" by Examiner Paradiso in the 04/23/2002 Patent Office Action. A discrete pressure sensitive button is not described in the Furukawa reference on a game controller. The pressure sensitive buttons of the invention being analog or using analog switches or analog sensors. Functionally, with the invention the right pressure sensor is for receiving variable pressure from the user to cause variable actuation of timing critical aspects of games such as braking a car, accelerating a car, or jumping a character. With the invention, analog pressure button use in the right hand position provides for timing of the start of the character jump as well as how high or far the character jumps, that being determinable by the start of pressing the button as well as how hard the button is pressed, i.e. the magnitude of the pressure. Using pressure sensor buttons allows the user to feel the varying pressure between his finger or thumb and the button, giving him important feedback.

In the 06/01/05 Office Action the Examiner details his opinion and also details what in Furukawa lead to him to drawing that particular opinion regarding the patentability of the current Invention. As will be shown, there are very significant errors in the Examiner's reading and understanding of Furukawa, the

errors have lead the Examiner to the improper rejection under 35 USC 102 and 103. All pending claims should be held allowable because the Examiner's misunderstandings of Furukawa are at the heart of the issue of patentability of the present claims. Regarding game controllers, contrary to the Examiner's current understanding, Furukawa teaches and suggests only left hand pressure sensors combined together in a multi-directional rocker referred to as a cross key 12 for steering of characters, a significantly different spatial control arrangement utilizing the opposite side of the human brain than is used for timing critical control functions as with the present invention. Such is well detailed and made critical in Applicant's "Summary of the Invention" section of the current Application.

(B)The Examiner mistakenly believes Furukawa teaches and suggests right hand pressure sensor buttons for the reasons identified by the Examiner. The evidence of this error forming the foundation of the rejections is as follows:

Firstly, the Examiner states in the first paragraph on page 4 of the Office Action:

*"Furukawa clearly teaches buttons 19 &20 on the right side of the controller. Since the only switches discussed in the reference are analog switches such as those depicted in figures 2 and 3, Examiner believes these switches to be analog."*

The Examiner clearly has misunderstood the Furukawa reference in the following very critical ways:

1) The Examiner states:

***“Since the only switches discussed in the reference are analog switches”.***

In the above it is clear the Examiner believes only analog switches are discussed in the Furukawa reference. The Examiner bases his belief that Furukawa teaches and suggests right hand or discrete pressure sensitive buttons mainly on this single type of switch misunderstanding. The Examiner then bases his rejections on this mistaken belief that only analog switches are discussed in the Furukawa reference. **However, it is clearly not the case that only analog switches are discussed in the Furukawa reference.** The Furukawa reference discusses On/Off or digital switches called contact switches, i.e., **non analog** switches on page 3 (English translation) beginning at the paragraph starting with “A conventional rubber contact of this type” with the discussion continuing through the balance of page 3 and into the top of page 4.

- 2) Following “the only switches discussed in the reference are analog switches” portion of his statement, the Examiner then further states:

***such as those depicted in figures 2 and 3,***

Again, in yet another very significant way, the Examiner’s opinion about what the Furukawa reference describes, and thus the foundation of his rejections, is completely wrong due to misunderstanding of the Furukawa reference. The Examiner indicates that **figure 3** of Furukawa shows an analog switch like that of figure 2. **However**, contrary to the understanding of the Examiner, the figure 3 drawing in Furukawa is the On/Off or digital (not analog)

contact switch discussed for almost an entire page of writing on pages 3 and 4 in the English translation of Furukawa. Clearly the Examiner's understanding of figure 3 is entirely incorrect and as indicated by the Examiner is at the heart of his evidence and is why the Examiner believes that Furukawa teaches or suggests pressure sensor buttons on the right hand side of the controller.

C)

Clearly the Examiner's opinion is formed upon misunderstandings of Furukawa. These misunderstandings have lead to faulty grounds for rejection over the prior art. The 35 USC 102 and 103 rejections are critically flawed, unsupported and based upon critically flawed understandings of the Furukawa reference. Therefore the rejections should be withdrawn as improper under 35 U.S.C.102, 103 and the Manual of Patent Examining Procedures.

Combining Terajima with Furukawa when the relied upon features in Furukawa are not present as shown above renders the combination of the two references lacking needed elements supporting a proper obviousness rejection.

Therefore allowance of the claims 1-51, 54-56 over the prior art is respectfully requested and would be the correct and fair finding. Thank you.

7.

(A) Regarding the point 8 on page 7 of the Office Action requesting a terminal disclaimer for US Patent "6,343,911". Applicant believes the Examiner is writing about Patent 6, 343,991.

(B) A Terminal Disclaimer is included herewith, along with the Large entity fee of \$130.00 therefore. Applicant submits the terminal disclaimer only to expedite the advancement of this Application toward issuance and because the submission of a terminal disclaimer is not an admission of anything, see *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991) and in particular therein the statement:

"a terminal disclaimer is of circumscribed availability and effect. It is not an admission of obviousness of the latter filed claimed invention in light of the earlier filed disclosure" .

Also, from the Manual of Patent Examining Procedure, Section 804.02, it is clear the U.S. Patent Office accepts and agrees with the Court's holding that a terminal disclaimer is not an admission of anything.

(8)

The Declaration of Applicant's last response not in proper form according to the Examiner, is in proper form as far as Applicant understands. It would be helpful if the Examiner would provide either a suggestion for correction or a Rule number in which the Declaration is non-conforming. Secondary Considerations include the area of "Licensing Activities" which the Declaration clearly asserts. The "**Nexus**" is that no reasonable person in this field disputes Sony leads or is a leader in the world of game consoles and controllers. Sony (a Law firm for Sony)



provided the Furukawa reference to Applicant and Applicant provided it to the Patent Office. Sony purchased a License to the present Invention and others related thereto for many Millions of U.S. Dollars. It is not reasonable to conclude that Applicant's "negotiating skills" alone persuaded Sony to buy a License for many Millions of Dollars. Sony was not unfamiliar with Furukawa as they provided it to Applicant, and Sony was not unfamiliar with game consoles and controllers as Sony is a world leader in that art. Applicant negotiated the License with an Intellectual Law firm Sony hired to represent them, the Law firm representing Sony provided Furukawa to Applicant. The Law firm being one of the most successful Law firms in the United States has collected great sums of money for patent royalties in the past on other patents for other clients. The Law firm recommended Sony purchase the License from Applicant. Sony Lawyers were also involved in addition to the above mentioned Law firm. Sony clearly sees great value in Applicant's Invention and would not do so if it were, as the Examiner contends, a well known idea from the past laying in the public domain for anyone to make and sell without any compensation to the Inventor. Such is clearly not the case. The evidence is very clearly to the contrary of the Examiner's position. The present invention is an invention and worthy of patent allowance.

(9)

It is noted on page 7 of the Office Action that the Examiner believes Applicant repeats arguments that have already been "addressed". However, a

point made by Applicant in traversing a rejection is not “addressed” until the Examiner notes it and then answers the substance of it as the Commissioner of Patents requires of the Examiner in MPEP 707.07(f). The Examiner has not answered the substance of many points raised by Applicant in traversing rejection grounds in the current and previous Office Action. Applicant has always tried to keep all responses as brief as possible. Applicant could provide a list of that which the Examiner has not answered as required, but will not in an ongoing effort to be brief, and because herein above the current grounds for rejection are shown to be totally unsupported.

(10) Applicant believes the Patent Office does not have any valid grounds to further delay the advancement of this Application once again toward Patent Issue. Please find the Application once again in condition for allowance. Thank you.

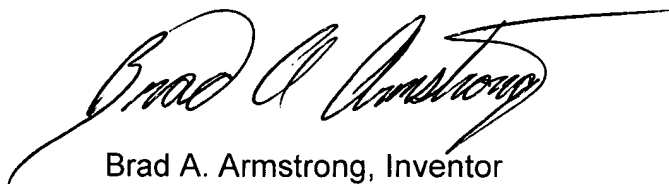
Amendments to the claims are attached for the sole purpose of canceling claims 52 and 53 so that a Notice of Allowance can be mailed.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true: and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false

statements may jeopardize the validity of the application or any patent issued thereon.

Thank you for your careful consideration of this very important matter.

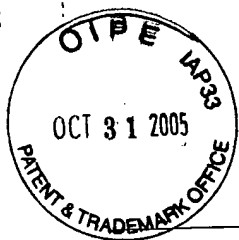
Very Respectfully,

A handwritten signature in black ink, appearing to read "Brad A. Armstrong", with a long, sweeping horizontal line extending from the end of the signature to the right.

Brad A. Armstrong, Inventor

Date:

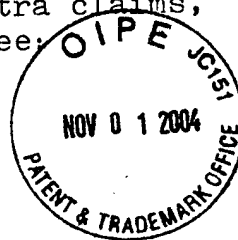
*October 31, 2005*



# EXHIBIT A

The following received by US Express Mail ~~article~~-  
article No. ER 715475086 US:

The complete response to the outstanding Office  
Action date mailed 05/03/2004 for pending US Patent  
Application No. 09/896,680; the response including  
a Request for an RCE; and Extension of Time Petition;  
a written Remarks and Amendment section, an  
Information Disclosure Statement with copies of  
the non US references; Certificates of Express  
mailing and a check for \$2548.00 for extra claims,  
the RCE fee and the Petition for Time fee:



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